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PATENT APPLICATION

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IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Chet M. Butikofer

Confirmation No.: 6372

Application No.: 09/892,180

Examiner: Davetta W. Goins

Filing Date: November 14, 2001

Group Art Unit: 2832

Title: DEVICE INITIALIZATION IN RESPONSE TO A REMOTE EVENT

Mail Stop Appeal Brief-Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on February 9, 2006.

The fee for filing this Appeal Brief is (37 CFR 1.17(c)) \$500.00.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

☐ (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d)) for the total number of months checked below:

☐ 1st Month
\$120

☐ 2nd Month
\$450

☐ 3rd Month
\$1020

☐ 4th Month
\$1590

☐ The extension fee has already been filed in this application.

☐ (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account 08-2025 the sum of \$ 600 . At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.


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By 

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First Named Inventor	Chet M. Butikofer	APPEAL BRIEF RECEIVED CENTRAL FAX CENTER APR 06 2006
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I. Introduction

Appellant filed a Notice of Appeal to the Board of Patent Appeals and Interferences on February 9, 2006. One copy of this Appeal Brief is hereby filed, in accordance with 37 C.F.R. § 41.37(a)(1), and is accompanied by an authorization to charge Appellant's deposit account for the fee in the amount of \$500.00 as required under 37 C.F.R. § 41.20(b)(2).

II. Real Party in Interest

The present application has been assigned to Hewlett-Packard Development Company, L.P., a Texas Limited Partnership having its principal place of business at 20555 SH 249, Houston, TX 77070 (hereinafter "HPDC"), in an assignment recorded on September 30, 2003, at Reel 014061, Frame 0492. HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

III. Related Appeals and Interferences

There are no other appeals or interferences known to Appellant that will have a bearing on the Board's decision in the present Appeal.

IV. Status of Claims

Claims 1-15 and 17-20 are pending in the application. Claims 1, 3, 8, 10, 11 and 18 are the subject of this Appeal. Remaining dependent claims are not separately argued under the provisions of 37 CFR 41.37(c)(1)(vii).

In the Final Office Action mailed June 15, 2005, claims 1, 3, 10, 11 and 18 were rejected under 35 U.S.C. § 102(e) as being anticipated by Nishii (U.S. Patent No. 6,698,950 B2). Claim 8 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Nishii (U.S. Patent No. 6,698,950 B2) in view of Nakamura et al.(U.S. Patent No. 6,151,464).

See Appendix A for claims 1, 3, 8, 10, 11 and 18 involved in this Appeal.

V. Status of Amendments

All amendments to the claims have been entered.

VI. Summary of Claimed Subject Matter

The present claims are directed to methods and apparatus for initializing imaging devices 120 in response to a remote event. Detection of a potential user of an imaging device 120 is utilized to begin the device initialization prior to when the user might be expected to access the imaging device 120. By beginning the initialization process prior to the user's expected access of the device, wait time experienced by the user may be reduced without a need to continuously maintain the device in a full powered-up state or even to maintain the device in a stand-by state. Elements pertinent to the issues on appeal are shown throughout the specification and in particular in paragraphs 0022-0029 with reference to Figures 1 and 2.

The subject matter defined in the claims involved in this Appeal includes methods of preparing an imaging device 120 for use. The methods include detecting a potential user of the imaging device 120 and beginning an initialization of the imaging device 120 in response, at least in part, to detecting the potential user. Further methods include determining whether the potential user is a likely user of the imaging device 120, and only beginning the initialization of the imaging device if the potential user is a likely user.

The subject matter defined in the claims involved in this Appeal further includes systems 100. The systems 100 include a network 110 and at least one imaging device 120 in communication with the network. Sensors 140 in communication with the network 110 are adapted to detect a potential user of one or more of the imaging devices 120. A management facility 135 is adapted to initialize one or more of the imaging devices 120 in response to a predefined criteria including detecting a potential user of an imaging device 120 by a sensor 140 and an indication of a likelihood that the potential user might desire to use one or more of the imaging devices 120 prior to the potential user accessing the network 110 or any of the imaging devices 120.

The subject matter defined in the claims involved in this Appeal still further includes a computer-usable media having computer-readable instructions stored thereon. The instructions are capable of causing a processor to perform a method including receiving an indication of the presence of a potential user of an imaging device 120 and determining whether the potential user of the imaging device 120 is a likely user of the imaging device 120. An imaging device 120 can then be directed to begin an initialization if it is determined that the potential user is a likely user.

VII. Grounds of Rejection to be Reviewed on Appeal

- Whether claims 1, 10 and 18 are unpatentable under 35 U.S.C. § 102(e) as being anticipated by Nishii (U.S. Patent No. 6,698,950 B2).
- Whether claim 3 is unpatentable under 35 U.S.C. § 102(e) as being anticipated by Nishii (U.S. Patent No. 6,698,950 B2).
- Whether claim 11 is unpatentable under 35 U.S.C. § 102(e) as being anticipated by Nishii (U.S. Patent No. 6,698,950 B2).

- Whether claim 8 is unpatentable under 35 U.S.C. § 103(a) over Nishii (U.S. Patent No. 6,698,950 B2) in view of Nakamura et al.(U.S. Patent No. 6,151,464).

VIII. Argument

A. Applicable Authorities

35 U.S.C. § 102

35 U.S.C. § 102(e) provides in relevant part:

A person shall be entitled to a patent unless —

(e) the invention was described in - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

35 U.S.C. § 103

35 U.S.C. § 103(a) provides in relevant part:

Conditions for patentability; non-obvious subject matter.

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

“The ultimate determination ... whether an invention is or is not obvious is a legal conclusion based on underlying factual inquiries including: (1) the scope and content of the prior art; (2) the level of ordinary skill in the prior art; (3) the differences between the claimed invention and the prior art; and (4) objective evidence of nonobviousness.” *In re Dembiczak*, 175 F.3d 994, 998, 50 USPQ2d 1614, 1616 (1999) (citing *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966)).

When applying 35 U.S.C. §103, the claimed invention must be considered as a whole; the references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination; the references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention and a reasonable expectation of success is the standard with which obviousness is determined. *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986).

To establish a *prima facie* case of obviousness, three basic criteria must be met: (1) There must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (2) There must be a reasonable expectation of success; (3) The prior art references must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable

expectation of success must both be found in the prior art, and not based on appellants' disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *See, e.g., In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959) (Claims were directed to an oil seal comprising a bore engaging portion with outwardly biased resilient spring fingers inserted in a resilient sealing member. The primary reference relied upon in a rejection based on a combination of references disclosed an oil seal wherein the bore engaging portion was reinforced by a cylindrical sheet metal casing. Patentee taught the device required rigidity for operation, whereas the claimed invention required resiliency. The court reversed the rejection holding the "suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the primary reference] as well as a change in the basic principle under which the [primary reference] construction was designed to operate." 270 F.2d at 813, 123 USPQ at 352.).

Definition of Claim Terms

Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999)).

B. Analysis

(i) Preliminary Remarks

The Final Office Action mailed June 15, 2005 rejected all pending claims. The various rejections for those claims of issue in the Appeal will be discussed in relation to the corresponding references. However, a fundamental point of difference is that the Examiner is equating a current user of an imaging device, i.e., one that has already sent a

print job and is awaiting output, with a potential user of an imaging device, i.e., one that is not yet able to access the imaging device.

Appellant has expressly defined the term “potential user” to precede an ability to use the imaging device and to preclude actual access of the device. *See, e.g.*, Specification, paragraph 0013 (“Detection of a potential user of an imaging device is utilized to begin the device initialization prior to the user being able to access the imaging device. By beginning the initialization process prior to the user being able to access the device, wait time experienced by the user may be reduced without a need to continuously maintain the device in a full powered-up state or even to maintain the device in a stand-by state. As used herein, detecting a potential user does not involve direct communication between the potential user and an imaging device such as a user sending a print job to an imaging device or a user pressing a button on a control panel of the imaging device.”). Thus, if a user has already accessed the imaging device by sending a print job, and has a print job waiting at the imaging device, they cannot be a “potential user” as that term has been explicitly defined in Appellant’s Specification and used in Appellant’s claims. *See, Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999)).

Similarly, Appellant contends that the term “likely user” refers to a likelihood that a potential user may access an imaging device and again precedes and precludes actual access of the imaging device. *See, e.g.*, Specification, paragraph 0022 (“[A]dditional information and logic may be applied to determine whether the potential user is a likely user of an imaging device 120 of the system 100. One example includes a length of time following detection of the potential user. Consider the case where an employee gains entry to their office by swiping an ID card through a magnetic card reader and it is expected that this employee will take ten minutes in travel time and login time before they can gain access to their network. Thus, while the employee is a potential user of an imaging device when they gain entry to their office, they are not a likely user of the imaging device for at least ten minutes.”).

Because a current user of an imaging device is repugnant to the explicit definitions of Appellant's claim terms "potential user" and "likely user," Appellant contends that the Examiner cannot equate these terms and that rejections based on such are improper and unsupported. *Cf.*, Advisory Action mailed 1/19/2006, Continuation Sheet ("Nishii reads on the claims since he discloses a system that recognizes a person's ID card as they approach the printer/fax machine and determines whether it recognizes the id code. The fact that the system can determine whether the id code is a match would definitely mean that the system can determine that the "recognized" id is of a "likely user". Upon determining that the matched code belongs to a likely user, the printer will then begin printing "(nitialize [sic]) the printint [sic] process, after determining that the user's id belongs to one of a person with a higher priority. Although another person's printing job may be interrupted, the printer will recognize that the detected id that is near the printer has a higher priority and will end the currently printed job and will then "begin" (initialize) the job for the nearby detected id. Therefore the rejection still stands.").

(ii) Claim Rejections Under 35 U.S.C. § 102

Claims 1, 3, 10, 11 and 18 were rejected under 35 U.S.C. § 102(e) as being anticipated by Nishii (U.S. Patent No. 6,698,950 B2).

Claims 1, 10 and 18

Claim 1 recites, in part, "determining whether the potential user of the imaging device is a likely user of the imaging device in response to remotely detecting the potential user" and "beginning an initialization of the imaging device in response, at least in part, to remotely detecting the potential user and determining that the potential user is a likely user of the imaging device." Claim 10 recites, in part, "determining whether the potential user of the imaging device is a likely user of the imaging device" and "beginning an initialization of the imaging device in response, at least in part, to detecting the potential user, and only when the potential user of the imaging device is a likely user of the imaging device." Claim 18 recites, in part, "receiving a first signal indicative of a

presence of a potential user of an imaging device,” “determining whether the potential user of the imaging device is a likely user of the imaging device in response to receiving the first signal” and “providing a second signal directed to the imaging device and adapted to begin an initialization of the imaging device if it is determined that the potential user is a likely user.”

In each of these claims, an action is being taken on the basis of detecting a potential user. For various embodiments, detection of a potential user of an imaging device is utilized to begin the device initialization prior to when the user might be expected to access the imaging device. *Id.*, paragraph 0005. By beginning the initialization process prior to the user's expected access of the device, wait time experienced by the user may be reduced without a need to continuously maintain the device in a full powered-up state or even to maintain the device in a stand-by state. *Id.* Thus it is clear that determining whether a potential user is a likely user must relate to a future event, i.e., whether the potential user is expected to access the imaging device at a point in time occurring after their detection.

Contrary to the limitations of Appellant's claims 1, 10 and 18, Nishii's decision to start the printer job is made on the basis of whether the detected user has already accessed the imaging device by sending it a printer job. In response to detecting a user, Nishii purports to determine whether that user has any currently pending printer jobs. If there are no currently pending printer jobs for the detected user, no action is taken. *See*, Nishii, Figure 7 and accompanying text. In other words, Nishii does not look to the possibility of future access of the imaging device, but merely assesses the user in relation to currently pending print jobs. Appellant thus respectfully contends that Nishii fails to teach or suggest at least these limitations of claims 1, 10 and 18.

In view of the foregoing, Appellant contends that claims 1, 10 and 18 are patentably distinct from the cited reference.

Claim 3

Claim 3 recites, in part, “beginning an initialization of the imaging device in response, at least in part, to detecting the potential user,” “wherein detecting a potential user of the imaging device comprises detecting that a person has entered a facility housing the imaging device” and “wherein detecting a potential user of the imaging device further comprises determining an identity of the person who entered the facility and deciding whether the person is a potential user based on their identity.”

The Final Office Action mailed June 15, 2005 admits, “Nishii does not specifically disclose the claimed method of detecting a potential user of the imaging device comprises detecting that a person has entered a facility housing the imaging device” Final Office Action, page 4, section 4. On that basis alone, Appellant contends that a rejection under 35 U.S.C. § 102(e) is improper as to claim 3 as the Office has admitted that the reference does not disclose at least this limitation.

Furthermore, as noted with respect to claims 1, 10 and 18, Appellant contends that Nishii provides no guidance on initializing an imaging device prior to access, but instead only concerns itself with prioritizing printer jobs already received by the imaging device. Therefore, even if Nishii’s detection of a user near the imaging device could be read to include or suggest detection of a person entering a facility housing the imaging device, which Appellant denies, Nishii does not teach or disclose initialization of an imaging device on that basis. The detected user must have already accessed the device by sending a print job. *See*, Nishii, Figure 7 and accompanying text. As such, the person has already become a user of the imaging device before their detection and cannot, therefore, be deemed a potential user as that term is used by Appellant in its Specification and claims.

In view of the foregoing, Appellant contends that claim 3 is patentably distinct from the cited reference.

Claim 11

Claim 11 recites, in part, "wherein the management facility is adapted to initialize one or more of the imaging devices in response to a predefined criteria," "wherein the predefined criteria comprises at least whether a sensor indicates detection of a potential user" and "wherein the predefined criteria further comprises an indication of a likelihood that the potential user might desire to use one or more of the imaging devices prior to the potential user accessing the network or any of the imaging devices." As noted with respect to claims 1, 10 and 18, Nishii does not purport to do anything in response to detecting a user unless that user has already sent a currently pending printer job. As such, Nishii cannot teach or suggest initializing an imaging device in response to a predefined criteria that include an indication that the user might desire to use the imaging device prior to accessing the network or any of the imaging devices contained thereon. In order to generate a printer job in the process of Nishii, the detected user must have already accessed either the network on which the printer resides or the printer itself. This is in direct contradiction to the limitations of claim 11. Thus, Appellant contends that Nishii expressly teaches away from the limitations of claim 11.

In view of the foregoing, Appellant contends that claim 11 is patentably distinct from the cited reference.

(iii) Claim Rejections Under 35 U.S.C. § 103

Claim 8

Claim 8 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Nishii (U.S. Patent No. 6,698,950 B2) in view of Nakamura et al.(U.S. Patent No. 6,151,464).

Claim 8 recites, in part, "determining whether the potential user of the imaging device is a likely user of the imaging device," "beginning an initialization of the imaging device in response, at least in part, to detecting the potential user, and only when the potential user of the imaging device is a likely user of the imaging device" and "wherein

determining whether the potential user of the imaging device is a likely user of the imaging device further comprises evaluating past behaviors of the potential user.”

As noted with respect to claims 1, 10 and 18, Appellant contends that Nishii does not teach or suggest determining whether a potential user is a likely user of the imaging device. Instead, Nishii only purports to determine whether the detected user has actually accessed the imaging device and has a currently pending print job. The secondary reference of Nakamura et al. suffers the same deficiency, i.e., that Nakamura et al. does not purport to initialize an imaging device or even start a printer job unless the detected user has already accessed the imaging device. *See*, Nakamura et al., Figure 1 and accompanying text. Thus, alone or in combination, the cited references do not teach or suggest determining whether a potential user is a likely user of the imaging device as those terms are used and recited in Appellant’s Specification and claims.

Furthermore, Nishii and Nakamura et al. each start printer output if a detected user has a currently pending printer job, regardless of whether that detected user is a likely user of the imaging device at some future time. Thus, even if starting printer output can be read to include device initialization, which Appellant denies, printer output is allowed in situations expressly disallowed by Appellant’s claim 8. Accordingly, Appellant contends that the cited references, either alone or in combination, expressly teach away from the limitations of Appellant’s claim 8.

In addition, the Office Action asserts, “Since both Nishii and Nakamura disclose systems that keep a log of each user, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of using the history as behavior of the user(s), as disclosed by Nakamura, with the system of Nishii, as a means for conserving power and not unnecessarily initializing the imaging device when not needed.” Appellant respectfully disagrees. Neither Nishii nor Nakamura et al. purport to determine, on any basis, the likelihood that a detected user will use the imaging device at some point in the future. Each is concerned only with managing output from already-received printer jobs. Nakamura et al.’s use of prior behavior in prioritizing output on an

imaging device that is presumably already initialized is wholly unrelated to the subject of conserving power and is thus inconsistent with the Examiner's stated reasons for combining the references. Accordingly, Appellant contends that the use of Nakamura et al. to modify Nishii is improper as the Office has provided no objective reasoning in support of a conclusion to combine the teachings of the specific references.

Even if combination were proper, which Appellant denies, the combination fails to teach or suggest each and every element of Appellant's claims. As noted above, neither reference determines whether a detected user is a likely user as that term is used and defined in Appellant's Specification and claims. Neither provides any guidance on what basis to initialize a device. And both references allow printer output under conditions specifically excluded by the limitations of claim 8.

In view of the foregoing, Appellant contends that claim 8 is patentably distinct from the cited references, either alone or in combination.

IX. Conclusion

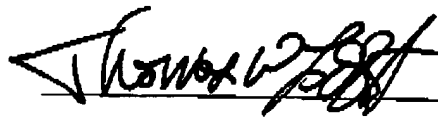
Appellant has taught methods and apparatus for initializing imaging devices 120 in response to detection of a potential user of an imaging device prior to the user's expected access of the device. The methods and apparatus facilitate reductions in wait time experienced by a user without a need to continuously maintain the device in a full powered-up state or even to maintain the device in a stand-by state.

Appellant has demonstrated that the references applied against the rejected claims do not teach or suggest, either expressly or inherently, each and every element as set forth in the claims. In particular, the references applied against the rejected claims, either alone or in combination, do not teach or suggest initializing imaging devices based on a possibility or likelihood of future access, but merely purport to prioritize print jobs already received by an imaging device.

For at least the reasons discussed above, Appellant submits that the pending claims are patentable. Accordingly, Appellant requests that the Board of Appeals reverse the Examiner's decisions regarding claims 1, 3, 8, 10, 11 and 18.

Respectfully submitted,

Date: 6 APR 06



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APPENDIX A**Claims Involved in Appeal**

1. A method of preparing an imaging device for use, comprising:
remotely detecting a potential user of the imaging device;
determining whether the potential user of the imaging device is a likely user of the
imaging device in response to remotely detecting the potential user; and
beginning an initialization of the imaging device in response, at least in part, to
remotely detecting the potential user and determining that the potential
user is a likely user of the imaging device.
3. A method of preparing an imaging device for use, comprising:
detecting a potential user of the imaging device; and
beginning an initialization of the imaging device in response, at least in part, to
detecting the potential user;
wherein detecting a potential user of the imaging device comprises detecting that
a person has entered a facility housing the imaging device; and
wherein detecting a potential user of the imaging device further comprises
determining an identity of the person who entered the facility and deciding
whether the person is a potential user based on their identity.
8. A method of preparing an imaging device for use, comprising:
detecting a potential user of the imaging device;
determining whether the potential user of the imaging device is a likely user of the
imaging device; and
beginning an initialization of the imaging device in response, at least in part, to
detecting the potential user, and only when the potential user of the
imaging device is a likely user of the imaging device;
wherein determining whether the potential user of the imaging device is a likely
user of the imaging device further comprises evaluating past behaviors of
the potential user.

10. A method of preparing an imaging device for use, comprising:
 - detecting a potential user of the imaging device;
 - determining whether the potential user of the imaging device is a likely user of the imaging device; and
 - beginning an initialization of the imaging device in response, at least in part, to detecting the potential user, and only when the potential user of the imaging device is a likely user of the imaging device;wherein determining whether the potential user of the imaging device is a likely user of the imaging device further comprises determining whether detection of the potential user was expected.
11. A system, comprising:
 - a network;
 - at least one imaging device in communication with the network;
 - at least one sensor in communication with the network and adapted to detect a potential user of one or more of the imaging devices; and
 - a management facility in communication with the network, the at least one imaging device and the at least one sensor;wherein the management facility is adapted to initialize one or more of the imaging devices in response to a predefined criteria;
 - wherein the predefined criteria comprises at least whether a sensor indicates detection of a potential user; and
 - wherein the predefined criteria further comprises an indication of a likelihood that the potential user might desire to use one or more of the imaging devices prior to the potential user accessing the network or any of the imaging devices.

18. A computer-usable media having computer-readable instructions stored thereon capable of causing a processor to perform a method, the method comprising:
receiving a first signal indicative of a presence of a potential user of an imaging device;
determining whether the potential user of the imaging device is a likely user of the imaging device in response to receiving the first signal; and
providing a second signal directed to the imaging device and adapted to begin an initialization of the imaging device if it is determined that the potential user is a likely user.

APPENDIX B**Evidence Appendix**

There is no extrinsic evidence to be considered in this Appeal. Therefore, no evidence is presented in this Appendix.

APPENDIX C**Related Proceedings Appendix**

There are no related proceedings to be considered in this Appeal. Therefore, no such proceedings are identified in this Appendix.